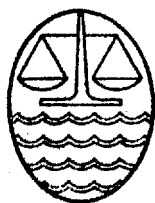




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THIRD CONFERENCE
ON THE LAW OF THE SEA



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Note by the Secretary-General of the Third United Nations
Conference on the Law of the Sea

The Secretary-General has the honour to communicate the attached supplementary note of the Secretary-General of UNCTAD, dated 5 March 1975, referring to reports prepared by the UNCTAD secretariat.

GE.75-63251

Third United Nations Conference on the Law of the Sea:

Supplementary Note by the Secretary-General of UNCTAD

1. The UNCTAD Committee on Commodities, at the first part of its eighth session, (Geneva, 10 - 21 February 1975) decided, in accordance with a decision of the Trade and Development Board at its thirteenth session,^{1/} to transmit two reports recently prepared by the UNCTAD secretariat, together with a summary of the views expressed thereon, to the third session of the Third United Nations Conference on the Law of the Sea.
2. Accordingly, the following reports are transmitted for presentation to the third session of the Third United Nations Conference on the Law of the Sea:

<u>Title</u>	<u>Symbol</u>	<u>Date</u>
Implications of the exploitation of the mineral resources of the sea-bed: issues of international commodity policy: report by the UNCTAD secretariat	TD/B/C.1/170 and Corr.1 and Corr.2 (Chinese only)	8 January 1975
The effects of the production of nickel from the sea-bed, with particular reference to the impact on the export earnings of developing country producers of nickel: report by the UNCTAD secretariat	TD/B/C.1/172	4 December 1974

3. The text of chapter VII of the report of the Committee on Commodities on the first part of its eighth session, which contains a summary of the views expressed on the above-mentioned documents, is reproduced in annex I to this note. Annex II contains the text of an agreed conclusion adopted by the Committee on the subject of the mineral resources of the sea-bed.
4. This note supplements that communicated in May 1974, and reproduced as part of document A/CONF.62/26, dated 6 June 1974, relating to relevant reports prepared by the UNCTAD secretariat by that time.

1/ A/9015/Rev.1, part three, paras. 57 and 58.

Annex I

EXTRACT FROM THE REPORT OF THE COMMITTEE ON COMMODITIES ON THE FIRST
PART OF ITS EIGHTH SESSION, HELD FROM 10 TO 21 FEBRUARY 1975
(TD/B/C.1(VIII)/Misc.4)

Chapter VII

CONSIDERATION OF STUDIES BY THE UNCTAD SECRETARIAT WITHIN THE
COMPETENCE OF THE COMMITTEE ON COMMODITIES ON THE EXPLOITATION,
FOR COMMERCIAL PURPOSES, OF THE MINERAL RESOURCES OF THE
SEA-BED AND THE OCEAN FLOOR, AND THE SUB-SOIL THEREOF,
BEYOND THE LIMITS OF NATIONAL JURISDICTION 33/

(Agenda item 11)

201. The representative of the Secretary-General of UNCTAD introduced two reports under this item: a general report entitled "Implications of the exploitation of the mineral resources of the international area of the sea-bed: issues of international commodity policy" (TD/B/C.1/170 and Corr.1 and 2) and a report, summarizing the results of a case study on nickel, entitled "The effects of production of nickel from the sea-bed, with particular reference to the impact on the export earnings of developing country producers of nickel" (TD/B/C.1/172). He stated that the main common finding of the four case studies completed by the UNCTAD secretariat^{34/} was that the earnings of developing countries from the export of the minerals concerned - manganese, cobalt, copper and nickel - would in each case be lower than in the absence of sea-bed mining. In view of the adverse economic effects a reduction in export earnings would have on the countries concerned, the secretariat considered that firm, specific and adequate arrangements, either of a compensatory or of a preventive character, to safeguard the interests of those countries should be elaborated in advance of the commencement of mining, as an integral element of any international régime. The secretariat considered that, failing adequate compensatory arrangements, there would be an extremely strong case for centralized marketing by the sea-bed authority of all the output of sea-bed minerals, if such activity was in the hands of commercial enterprises, or for the exploitation of the resources of the sea-bed exclusively by the international authority.

^{33/} This item was referred to the sessional committee for consideration and report (see paras. 231-233 below).

^{34/} TD/B/483, TD/B/499/Add.1, TD/B/484 and TD/B/C.1/172.

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202. The representatives of developing countries participating in the discussion expressed their appreciation of the reports and case studies prepared by the UNCTAD secretariat, which they considered to be of a high standard and of great value. They were of the view that the UNCTAD secretariat should continue its studies in this field as a contribution to the formulation of appropriate international arrangements.

203. The representative of one of these countries stated that policies concerning mineral production from the sea-bed might be considered in the context of the proposed integrated programme for commodities, particularly since several of the minerals concerned were listed in table 1 of document TD/B/C.1/166. He said that future studies by the UNCTAD secretariat should emphasize questions of scale and cost, as these were factors that influenced sea-bed operations. He noted that the question of compensation need not be limited to the sea-bed authority but could be part of the integrated approach to commodities. Other proposals for compensatory financing currently under study could also take account of sea-bed operations. In his view, it was not appropriate to talk of arrangements of a 'preventive' character, which would tantamount to inaction; the rational and orderly exploitation of the sea-bed and the ocean floor - the common heritage of mankind - could only come through a strong international sea-bed authority.

204. The representatives of developing countries participating in the discussion referred to the possible adverse economic effects which the unregulated exploitation of the mineral resources of the international area of the sea-bed could have on the economies of developing countries. One of them said that since many of the minerals available on land could become available from the international area of the sea-bed, sea-bed mining could have more far-reaching implications for developing countries than was shown to be the case in respect of the four minerals that could be extracted from manganese nodules. He added that several consortia, consisting essentially of companies from developed market-economy countries, were actively engaged in prospecting the international area and had already invested many millions of dollars. Recent reports indicated that petroleum and phosphates were likely to become available from the abyssal plain. In the light of the above, it was necessary to adopt preventive measures for the regulation of production within the framework of the international régime and machinery that should be established.

205. The representatives of developing countries stated that the resources of the international area of the sea-bed should be exploited in a manner which would serve the interests of mankind as a whole, as these resources were universally recognized as the common heritage of mankind. They were not in favour of ill-conceived exploitation. They stressed the need to evolve an international régime and machinery in accordance with the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the General Assembly (resolution 2749 (XXV)). In their view, a régime and machinery based on this Declaration would be able to control and regulate the activity in the international area of the sea-bed in the interests of mankind as a whole.

206. The representative of one developing country, referring to the Dakar Declaration (TD/B/C.1/L.45), said that the exploitation of the resources of the international area of the sea-bed, which appeared likely to commence by 1985, would threaten seriously to reduce the export earnings of developing countries, in view of the likelihood that the exploitation of those resources might be undertaken under a régime which would not fully safeguard the interests of developing countries. He said that no State should exploit the area in the absence of an international régime. He added that a preferential régime to assist the geographically disadvantaged developing countries would be in accordance with the Declaration of Principles adopted by the General Assembly. In his view, the resources of the international area of the sea-bed should be exploited in a manner that conserved and protected the marine environment.

207. The representative of a developing socialist country of Asia stated that no country or individual should exploit the sea-bed resources of the international area beyond the limits of national jurisdiction for commercial purposes, pending establishment of an international system for the management of these resources. He said that this principle had been adopted in Conference resolutions 51 (III) and 52 (III) and should be respected by all nations. Developing countries should have the full right to join in decisions, on an equal footing with other countries, concerning the exploitation and management of international sea-bed resources beyond the limits of national jurisdiction.

208. The representatives of developing countries expressed the wish that the Secretary-General of UNCTAD should be represented at the third session of the Third United Nations Conference on the Law of the Sea.

209. The spokesman for Group B noted that the question of the economic implications of the mineral exploitation of the resources of the international area of the sea-bed was a complicated one. There were a number of economic variables whose parameters were uncertain and unpredictable, and he expressed concern regarding the validity of the studies prepared by the UNCTAD secretariat. He noted that there was a tendency in the studies towards the freezing of the pattern of development, and the studies were not sufficiently dynamic in approach. Moreover, an air of unreality existed because the stage of commercial exploitation of the sea-bed had not yet been reached and many details concerning costs and the technology of exploitation were unknown. Despite considerable reservations about the validity of the analyses in the studies on the part of the countries members of Group B, he could support the idea that the studies should be referred to the Third United Nations Conference on the Law of the Sea for consideration at its forthcoming third session, where comprehensive negotiations would be held on all related aspects.

210. The representative of one developed market-economy country doubted both the validity and the usefulness of the studies prepared by the UNCTAD secretariat, especially the summary report (TD/B/C.1/172), which he considered was "one-sided" and confused and did not take the dynamics of the market into account. He noted, as an example of this dynamism, the fact that the case studies were already out of date. He was of the view that the summary report prepared by the secretariat should have been more carefully qualified concerning the quantitative aspects of the matters studied. It failed to stress that the estimates of "shortfalls" in export earnings were based essentially on guesses concerning future prices, production by area, market shares and world demand. It was confused regarding the period to which its projections applied. It failed to set its estimates in the proper perspective relative to market impact and in terms of countries' total export earnings.

211. The representative of another developed market-economy country stated that the studies prepared by the UNCTAD secretariat were valuable despite their possible limitations. The risk of harmful effects on the economies of some developing countries arising from the exploitation of the resources of the sea-bed was real and there was a need for the international community to consider how such effects might be avoided or offset through appropriate control.

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212. The representative of another developed market-economy country considered that, in its assessment of the economic consequences of sea-bed exploitation, the UNCTAD secretariat should have taken more fully into account other possible new developments, especially those concerning mining and metallurgical techniques, as well as the likely impact on demand of improvements in the standard of living of people in developing countries. In reply, the representative of the Secretary-General of UNCTAD agreed that such considerations were essential for projecting the effects of sea-bed mining in the very long run. However, he said it appeared unlikely that such developments would lead to significant changes in the markets for the minerals concerned during the relatively short period (five to ten years) envisaged in the studies.

Action by the Committee

213. At its 129th meeting, on 21 February 1975, the Committee adopted an agreed conclusion on agenda item 11 on the basis of a draft text submitted by the Chairman of the sessional committee (TD/B/C.1/SC.1(VIII)/L.3) ^{35/}.

^{35/} For the text as adopted, see annex I to the present report, agreed conclusion 10 (VIII).

Annex II

AGREED CONCLUSION ADOPTED BY THE COMMITTEE ON
COMMODITIES AT THE FIRST PART OF ITS EIGHTH SESSION

10 (VIII). Consideration of studies by the UNCTAD secretariat within the competence of the Committee on Commodities on the exploitation, for commercial purposes, of the mineral resources of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction

1. The Committee noted the wide appreciation for the reports prepared by the UNCTAD secretariat (documents TD/B/C.1/170 and TD/B/C.1/172) pursuant to Conference resolution 51 (III).
2. The Committee decided, in accordance with the decision of the Trade and Development Board at its thirteenth session ^{E/}, to transmit the above-mentioned reports, together with a summary of the views expressed thereon at the first part of its eighth session, to the Third United Nations Conference on the Law of the Sea at its third session, and to request the Secretary-General of UNCTAD to be available to present the reports, as appropriate, at that session.
3. The Committee noted the decision taken for a study by the Secretary-General of the United Nations, in co-operation with the Secretary-General of UNCTAD, to be prepared in time for consideration by the Third United Nations Conference on the Law of the Sea, at its third session, pursuant to General Assembly resolution 2750 (XXV) and Conference resolution 51 (III).
4. The Committee decided to request the Secretary-General of UNCTAD to be available to participate in the discussion of the above-mentioned reports at the third session of the Third United Nations Conference on the Law of the Sea, and to submit a report on the results of the discussion, together with the above-mentioned documents, to the Trade and Development Board at its fifteenth session, and to the United Nations Conference on Trade and Development at its fourth session, for their consideration, with a view to the implementation of Conference resolution 51 (III).

119th meeting
21 February 1975

^{E/} Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 15 (A/9015/Rev.1), part three, paras. 57 and 58.